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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,808	07/02/2001	Mathew Daniel	23273	3219

7590 09/08/2004
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EXAMINER	
MAGEE, CHRISTOPHER R	
ART UNIT	PAPER NUMBER
2653	

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/898,808

Applicant(s)

DANIEL ET AL.

Examiner

Christopher R. Magee

Art Unit

2653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 8-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group I claims (claims 1-7 and independent linking claim 15 and dependent claim 16) in the reply filed on 6/14/2004 is acknowledged. The traversal is on the ground(s) that new independent claim 15 is a proper linking claim drafted under the provisions of 35 USC §112, sixth paragraph. This is not found persuasive because new independent claim 15 is a product-by-process claim. A product-by-process claim, which is a product claim that defines the claimed product in terms of the process by which it is made, is proper. *In re Luck*. 476 F.2d 650. 177 USPQ 523 (CCPA 1973); *In re Pilkington*. 411 F.2d 1345. 162 USPQ 145 (CCPA 1969); and *In re Steppan*. 394 F.2d 1013. 156 USPQ 143 (CCPA 1967).

2. Claims 8-14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 6/14/2004.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baker et al. (hereinafter Baker) (US 5,214,549) in view of Pechersky (US 5,520,052).

Art Unit: 2653

- Regarding claims 1-7, Baker teaches an acoustically damped disc drive assembly having a housing 12, the disc drive assembly having internally disposed components generating acoustic vibrations. The housing 12 has a cover 50, comprising a plurality of plate members 52, 54 (i.e., first and second rigid damping layers, respectively) with a viscoelastic damping layer 56 disposed between the pairs of plate members (col. 4, lines 31-35; Figure 3).

First, Baker does not exemplify a second viscoelastic damping layer affixed to the first rigid damping layer and the second rigid damping layer affixed to the second viscoelastic damping layer.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the disc drive assembly housing cover of Baker with a second viscoelastic damping layer affixed to the first rigid damping layer and the second rigid damping layer affixed to the second viscoelastic damping layer.

The rationale is as follows: One of ordinary skill in the art at the time of the invention would have been motivated to provide the disc drive assembly housing cover of Baker with a second viscoelastic damping layer affixed to the first rigid damping layer and the second rigid damping layer affixed to the second viscoelastic damping layer because adding a second viscoelastic damping layer is in fact duplicating parts for a multiplied effect. *St. Regis Paper Co. v. Bemis Co., Inc.* 193 USPQ 8, 11 (7th Cir. 1977).

Second, Baker does not disclose a method of determining a resonant frequency of the housing layer, ascertaining a loss factor profile and selecting a final characteristic of each of the rigid damping layers and viscoelastic damping layers in relation to the ascertained loss factor profiles.

Art Unit: 2653

Perchersky teaches a non-destructive method and apparatus for determining the structural integrity of materials and components by combining laser vibrometry with damping analysis techniques to determine the damping loss factor of a material or component (col. 2, lines 30-35). Structural integrity analysis typically makes use of the correlation between the resonant frequency of an object and its structural quality (col. 2, lines 64-66).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the non-destructive method of Perchersky in order to select a final characteristic of each of the rigid damping layers and viscoelastic damping layers of Baker.

The rationale is as follows: One of ordinary skill in the art at the time of the invention would have been motivated to utilize the non-destructive method of Perchersky in order to select a final characteristic of each of the rigid damping layers and viscoelastic damping layers of Baker because determining the damping loss factor of an object offers a qualitative and quantitative measurement of structural integrity. Furthermore, the damping loss factor can be determined very quickly using known analysis techniques in conjunction with curve fitting software (col. 3, lines 5-10). One then can evaluate and select a material or component based on material strength, degree of abnormalities or overall quality.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R. Magee whose telephone number is (703) 605-4256. The examiner can normally be reached on M-F, 8: 00 am-5: 30 pm.

Art Unit: 2653

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Korzuch can be reached on (703) 305-6137. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Christopher R. Magee
Patent Examiner
Art Unit 2653

September 3, 2004



GEORGE J. LETSCHER
PRIMARY EXAMINER